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HOUSE OF REPRESENTATIVES
REPORT
99-505

EXECUTIVE EXCHANGE PROGRAM VOLUNTARY SERVICES ACT OF 1986

MARCH 25, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mrs. SCHROEDER, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 3002]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 3002) to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Executive Exchange Program Voluntary Services Act of 1986".

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) the term "Government" means the Government of the United States;

(2) the term "participant in an executive exchange program" means an executive, manager, or other individual from the private sector participating in an executive exchange program administered by the President's Commission on Executive Exchange (described in Executive Order 12493, dated December 5, 1984) or by a successor entity in function;

(3) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission; and

(4) the term "employee of the Government" means an individual employed in or under an agency.

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SEC. 3. EXPERIMENTAL PROGRAM.

(a) The President may establish an experimental program, to be conducted during fiscal years 1987 through 1989, under which voluntary services may be accepted by the government, without regard to section 1342 of title 31, United States Code.

(b) Under the program, the voluntary services of an individual may be accepted if—

(1) such individual is a participant in an executive exchange program;

(2) the acceptance of such services will not result in the displacement of any employee of the Government; and

(3) the voluntary services will be performed in or under an agency.

(c)(1) An individual performing voluntary services under the experimental program shall, for purposes of any laws, rules, and regulations of the United States (including those relating to conflicts of interest, financial disclosure, and standards of conduct) be considered an individual employed in or under the agency to which assigned, except that such individual shall not be covered by chapter 51, 53, 63, 83, 87, or 89 of title 5, United States Code, or any comparable provision relating to pay, leave, retirement, life insurance, or health benefits for employees of the Government.

(d) Not more than 10 individuals may commence participation in the experimental program during any fiscal year.

(e)(1) Nothing in this Act shall prevent—

(A) the continuation of pay and other benefits from the private-sector employer, or

(B) continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by the private-sector employer,

for an individual performing voluntary services in the experimental program.

(2) For the purpose of this section, the term "private-sector employer", as used with respect to an individual, means the corporation or other person by which such individual was employed immediately before beginning to perform voluntary services in the experimental program.

SEC. 4. REPORTS.

Not later than March 31, 1989, the President's Commission on Executive Exchange (or a successor entity in function) shall transmit to the Congress a report on the experimental program under this Act. The report shall include a description of the administration of the program, the findings of the Commission (or successor entity) relating to the advantages and disadvantages of accepting voluntary services from participants in an executive exchange program, and recommendations for legislation (if any) relating to the continuation of the program.

EXPLANATION OF AMENDMENT

The committee amendment to H.R. 3002 strikes out all after the enacting clause and substitutes an entirely new text. The explanation of the provisions of the committee amendment is contained in the explanation of the bill set forth later in this report.

PURPOSE

The purpose of this legislation is to establish an experimental program to allow the Government to accept the voluntary services of private sector participants in the executive exchange program administered by the President's Commission on Executive Exchange.

COMMITTEE ACTION

On July 16, 1985, Representative Frank Horton introduced, by request, H.R. 3002, the "Executive Exchange Program Voluntary Services Act of 1985." H.R. 3002 was referred to the Committee on Post Office and Civil Service.

The Subcommittee on Civil Service held a hearing on H.R. 3002 on October 9, 1985 (Serial No. 99–28). Testimony was presented by

June Grace Walker, Executive Director, President's Commission on Executive Exchange, accompanied by Bert Levine, Vice President, Johnson & Johnson, Neil A. Stein, Senior Associate Director and William G. Norton, Associate Director, President's Commission on Executive Exchange; Rosslyn Kleeman, Associate Director, General Government Division, General Accounting Office, accompanied by James J. Grace; and Blair Childs, Executive Director, Senior Executives Association. Written statements were received from Hon. Bernard J. Dwyer (Republican, New Jersey); James E. Burke, Chairman, President's Commission on Executive Exchange, and Hon. Constance Horner, Director, U.S. Office of Personnel Management.

On March 3, 1986, the Subcommittee on Civil Service, by voice vote, adopted an amendment in the nature of a substitute offered by Representative Horton and approved the bill, as amended, by a voice vote.

On March 11, 1986, the Committee on Post Office and Civil Service ordered H.R. 3002, as amended favorably reported by voice vote, a quorum being present.

SUMMARY

H.R. 3002, as amended, authorizes the President to establish an experimental program under which the Government may accept the voluntary services of private sector participants in the Executive Exchange program established by Executive Order 12493, dated December 5, 1984. The experimental program would be conducted in fiscal years 1987 through 1989 and would permit up to 10 private sector participants per year to work for the Government while continuing to be paid by their former employers. Thus, these individuals could be paid above the current pay ceiling for Government employees. Participants in the experimental program, along with all participants in the program administered by the President's Commission on Executive Exchange, are subject to Federal laws relating to conflict of interest, financial disclosure, and standards of conduct. At the conclusion of the experimental program, the President's Commission on Executive Exchange must report to the Congress on the advantages or disadvantages of the program.

STATEMENT

For the past 16 years, executives from the private sector and the Federal Government have had the opportunity to work for one year in the other sector under an executive exchange program administered by the President's Commission on Executive Exchange. A major goal of the program is to help top-level executives experience first-hand the methods and problems of the other sector.

Under the existing program, Federal sector executives are paid their current salaries by their host private sector organization. Private sector executives participating in the executive exchange program are paid by their host Federal agencies; the executives' salaries are limited to the maximum salary set for members of the Senior Executive Service—currently $72,300 per year.

The President's Commission on Excutive Exchange reports that this limitation on salary has become an impediment to recruitment

of outstanding private sector executives. This is because Federal pay has fallen behind private sector pay for positions of comparable responsibility.

The experimental program authorized by H.R. 3002 would allow up to 10 private sector participants per year to work for the Federal Government while continuing to be paid by their sponsoring organizations. These individuals, along with other participants in the executive exchange program from the private sector, would be considered Federal employees for purposes of laws relating to conflict of interest, financial disclosure, and standards of conduct. They would not be considered Federal employees for purposes of pay, retirement, or other Federal employee benefits.

The executive exchange program was first established as the "President's Commission on Personnel Interchange" by President Johnson on January 19, 1969, by Executive Order 11451. President Carter renamed the program by Executive Order 12136, issued May 15, 1979. President Reagan issued Exectuive Order 12493 on December 5, 1984, to continue the executive exchange program.

The program generally functions in one-year cycles beginning in August or September, and the 16th exchange cycle is now underway. In recent years, the number of Federal sector participants has ranged from 10 to 20, while the number of private sector participants has ranged from 17 to 35.

The committee expects the experimental program established under H.R. 3002 to continue to operate on a one-year basis. The committee also expectes that the President's Commission on Executive Exchange will aggressively recruit among private sector participants, so the volunteer services program will be a true experiment. If the Commission recruited only 10 private sector participants, for example, and all were paid by their sponsoring organizations, the experimental nature of the program would be thwarted.

The committee expects the program to recruit aggressively to ensure that participants in the program are fully representative of all groups within society, including minorities and women.

The committee believes that the executive exchange program can provide a valuable interchange to reduce the gulf between public service and the private sector. Yet, the program is intended to be a temporary interchange. Executives coming into the Federal Government must not displace Federal workers and they should not compete with Federal workers for bonuses and recognition. Further, the program is best served if executives return to their previous employment after their stint in the other sector. That way the lessons of the exchange can be most broadly disseminated.

The committee is concerned that the number of participants in the program is too small to have any palpable impact on the hostile perceptions which the private sector has of the Federal service, and vice versa. Further, the committee is concerned that the program tends to recruit only from Fortune 500 companies and not from smaller companies, non-profit enterprises, and universities.

SECTION ANALYSIS

Section 1. Short title

H.R. 3002 is the Executive Exchange Program Voluntary Services Act of 1986.

Section 2. Definitions

Section 2 of the amended bill sets forth several definitions.

Paragraph (1) defines "Government" as the government of the United States. State and local governmental entities do not participate in the program.

Paragraph (2) defines "participant in an executive exchange program" for purposes of the experimental program as an executive or manager from the private sector who is participating in an Executive Exchange program.

Paragraph (3) defines "agency" as an Executive agency, the United States Postal Service, and the Postal Rate Commission. Private sector executives participating in the experimental exchange program are eligible to be placed in positions with these agencies.

Paragraph (4) defines "employee of the Government" as an individual employed in or under an agency as defined in paragraph (3).

Section 3. Experimental program

Section 3 of the amended bill establishes the experimental program.

Subsection (a) authorizes the President to establish a three-year experimental program in which the Government may accept the voluntary services of certain individuals, without regard to the limitation on acceptance of voluntary services contained in section 1342 of title 31, United States Code. The experimental program is to be conducted during fiscal years 1987 through 1989.

Subsection (b) sets out certain conditions for acceptance of voluntary services. The individual seeking to perform volunteer services for the Federal Government must (1) be a private sector participant in an executive exchange program administered by the President's Commission on Executive Exchange; (2) not displace any employee of the Government; and (3) perform such voluntary services in or under an agency, including the U.S. Postal Service.

Subsection (c) specifies that private sector participants in the experimental program are subject to Federal laws relating to conflict of interest, financial disclosure, and standards of conduct. These participants will be covered by all laws and regulations applicable to Federal employees, except those provisions relating to classification, pay, leave, retirement, life insurance, or health benefits.

Subsection (d) limits participation in the experimental program to 10 individuals in each of fiscal years 1987, 1988, and 1989. There is no limit on the number of private sector participants in the regular executive exchange program, nor any limit on the number of Federal sector executives who may work in the private sector under the program.

Subsection (e) permits the private sector participants in the experimental program to continue to receive the following benefits from a former employer (the committee assumes it will be the sponsoring organization, but this is not required): pay and other

benefits, continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee benefit plan maintained by the former employer.

Section 4. Reports

Section 4 directs the President's Commission on Executive Exchange to report to the Congress on the experimental program by March 31, 1989.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 1986.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3002, the Executive Exchange Program Voluntary Services Act of 1986, as ordered reported by the House Committee on Post Office and Civil Service, March 12, 1986. Enactment of this bill would result in no significant cost to the federal government and in no cost to state or local governments.

The bill would establish a three-year experimental program allowing private sector participants in the President's Commission on Executive Exchange to be paid above the government pay ceiling. Only ten individuals may commence participation during a fiscal year, and they would be paid by their sponsoring businesses. The bill would also require the commission to report to the Congress on the experimental program by March 31, 1989.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes.

Sincerely,

RUDOLPH G. PENNER.

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Civil Service is vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of the hearings, the subcommittee concluded that there is ample justification for enacting this legislation.

The subcommittee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that the enactment of H.R. 3002 will have no inflationary impact on the national economy.

ADMINISTRATION VIEWS

Set forth below are the views of the Office of Management and Budget and the Office of Personnel Management on this legislation.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 2, 1985.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 3002, "To provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government."

The purpose of H.R. 3002 is to authorize a temporary, three-year experiment under which 10 private sector executives a year could volunteer their services to the Government as exchange participants in the Executive Exchange program and be deemed Federal employees for all purposes except pay and benefits laws.

There is no objection from the standpoint of the Administration's program to enactment of H.R. 3002.

Sincerely,

JAMES M. FREY,
Assistant Director for
Legislative Reference.

U.S. OFFICE OF PERSONNEL MANAGEMENT,
OFFICE OF THE DIRECTOR,
Washington, DC, October 4, 1985.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on H.R. 3002 the "Executive Exchange Program Voluntary Services Act of 1985."

The bill would provide for an experimental program under which Federal agencies could accept the voluntary services of private sector executives participating in the President's Commission on Executive Exchange Program. No more than 10 such volunteers could be used each year in the 3-year program. The volunteer executives would continue to receive salary and benefits from their private sector employers and would be considered Federal employees only for limited purposes, most notably the laws on conflict of interest. The bill provides an exception to the statutory ban on

Federal agency acceptance of voluntary service and also prohibits the displacement of Federal employees by the volunteers.

We strongly support this bill since it would enable the Federal Government to obtain some of the private sector's best talent at no cost to the taxpayer. In fact, the exchange program would attract an increased number of senior level executives who are currently dissuaded from taking on these temporary Federal assignments because of the substantial pay cut required.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CONSTANCE HORNER, *Director.*

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